

Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605. (This is a GIL.)

June 23, 2005

Dear Xxxxx:

This letter is in response to your letter dated June 1, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

From Friday 21 May throughout Friday May 2005 (sic) my family visited San Antonio in Texas. We bought clothing's (sic) and golf clubs. As I have been informed non-US citizens temporarily visiting the USA do not have to pay tax on things bought in the USA. I therefore request that you pay back of what we have paid in US tax. The receipts for our bargains are in the envelope. I also include a list of all the goods (sic). Passenger receipt for the airline tickets for my wife and me is also included.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. Mere possession in Illinois is considered a use. Consequently, if the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer. Please note that a sale is taxable, even though a purchaser that receives physical possession of the property in this State immediately transports the property out of this State for use outside the State. See 86 Ill. Adm. Code

130.605(a)(2). The State of Illinois has no specific exemption for purchases by foreign or domestic travelers where the property is delivered and used in Illinois.

In addition, no credit or refund will be allowed by the Illinois Department of Revenue if tax was not paid to Illinois, but was instead paid to another state for purchases in that state. For sales tax paid for purchases in the State of Texas, any claim for credit or refund would have to be filed with the State of Texas. We are returning the receipts you submitted with your inquiry. Before you submit them to Texas, you may want to contact the Texas Comptroller of Public Accounts by telephone or e-mail to confirm whether you are eligible for a refund.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk